

82-00102

OFFICE OF THE ATTORNEY GENERAL



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Honorable John L. Beard
Judge of Probate
Marshall County
Post Office Box 246
Guntersville, AL 35976

Elections -
Alcoholic Beverages -
Electors

In verifying signatures on
a petition for a wet-dry
election, the probate judge
may include in the total all
who are registered voters at
the time of verification.

Dear Judge Beard:

You have requested an opinion of this office regarding
the following matter:

"On October 13, 1981 petitions were
filed with the Probate Office of
Marshall County, Alabama requesting
that a referendum be held to determine
whether alcoholic beverages can be
sold in the County.

"Question: In verifying the signatures
on the Petition, can the Probate Court
include the names of those persons who

Honorable John L. Beard
Judge of Probate
Marshall County
Page 2.

signed the petition but did not register to vote until after October 13, 1981 but did register before the final date of certification?"

The law is silent on the particular question you ask. Code of Alabama, 1975, § 28-2-1(a), provides in applicable part:

" . . . Upon the petition of 25 percent of the number of voters voting in the last preceding general election being filed with the probate judge of said county, said probate judge must call an election for said county to determine the sentiment of the people as to whether or not alcoholic beverages can legally be sold or distributed in said county. . . . Only qualified voters shall vote in said election. . . ."

These particular provisions do not require that a person be a registered voter at the time they sign the petition. But they do express the intent of the legislature that only qualified voters take part in the process. Thus, it is the opinion of this office that as long as an individual who has signed the petition is registered at the time the petition is verified, his name may be included in the total used to ascertain whether an election should be called. Conversely, if he has not registered when the verification process takes place his name should not be included.

I hope this satisfactorily answers your inquiry.

Sincerely,

CHARLES A. GRADDICK
Attorney General

By-



JOHN R. LOCKETT
Assistant Attorney General